

Remarks

Claims 28, 30 through 46, and 48 through 58 are pending in this application. Claims 1 through 27, 29, and 47 were canceled previously.

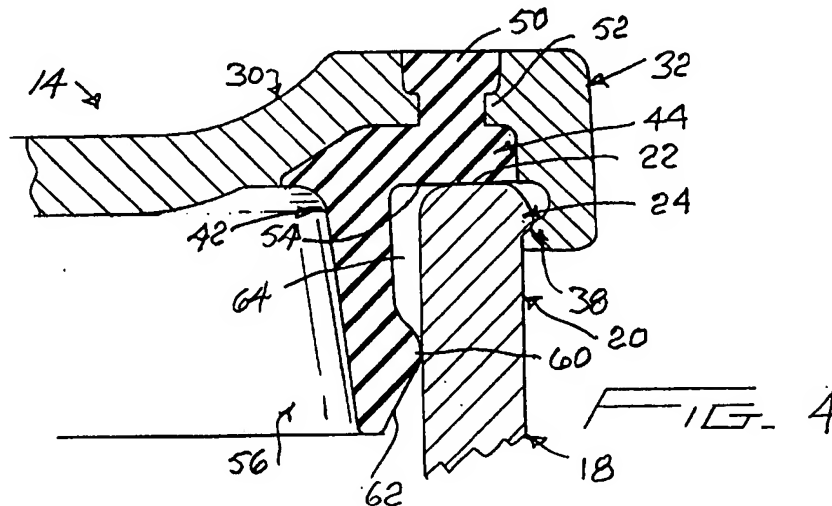
The Office Action asserts that under 35 U.S.C. §103(a), claims 28, 30 through 46, and 48 through 58 are unpatentable over U.S. Patent No. 5,868,273 to Daenen in view of U.S. Patent No. 3,592,349 to Baugh and in view of U.S. Patent No. 3,071,281 to Sawai.

Independent claim 28 recites, in pertinent part, a container assembly including: a container body; a bottom cap having a bottom wall and a side wall, with a plurality of holes disposed completely through the bottom wall; and a sealing member extending through the plurality of holes and protruding below the bottom surface of the bottom wall adjacent the plurality of holes.

Daenen discloses a canister with a removable, pressure-resistant sealing lid. The lid incorporates a seal element of elastomeric material, which is bonded to central and peripheral edge portions of the lid. Baugh discloses a plastic container and closure that provides a leakproof seal. The plastic container may have either a snap-on closure cap or a threaded neck and a cap having matching threads. Sawai discloses a tubular container having end closure sealing means, such as threads, at each end of the container.

The cited references fail to render claim 28 obvious. A prima facie case of obviousness can only be established when the reference disclose or suggest all of the elements found in a claim. The cited combination of Daenan, Baugh, and Sawai fails to disclose or suggest a container assembly including a sealing member extending through a plurality of holes and protruding below an outside bottom surface of a bottom wall adjacent the plurality of holes. The Office Action relies on Daenen to show sealing member extending through a plurality of holes. The Office argues that the term "wall" is read to be the central depression (30) shown in

Daenan, and that therefore the locking head (50) extends above the wall. However, as shown in Fig. 4 of Daenan reproduced below, it is clear that the locking head (50) does not extend past the outside surface of the wall:



The specification of Daenan emphasizes this point, indicating that “the seal locking head 50 extends upward from the seal body portion 44 within the gap between the lid portions 30 and 32 and between and over the connector webs 34 **to define a smooth continuous upper surface flush with the adjoining upper surfaces of the lid portions 30 and 32.**” Col. 3, lines 44-48 (emphasis added). Thus, Daenan does not disclose or suggest a sealing member extending through a plurality of holes and protruding below an outside surface of a bottom wall adjacent the plurality of holes. Baugh and Sawai also fail to disclose or suggest a sealing member protruding below an outside bottom surface. Thus, the cited combination fails to disclose a sealing member protruding below an outside bottom surface. Therefore, claim 28 is patentable over the cited combination of Daenan, Baugh, and Sawai.

Claims 30 through 41 depend from independent claim 28 and are patentable over Daenan, Baugh, and Sawai for at least the reasons given above regarding claim 28.

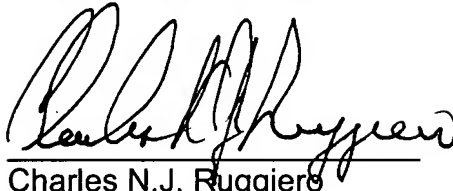
Independent claims 42 and 48 each recite a container assembly including a sealing or elastomeric member that extends below an outside bottom surface adjacent a plurality of holes. Independent claim 54 recites a container assembly including a sealant material that protrudes below and above a bottom wall adjacent a plurality of holes. Consequently, claims 42, 48, and 54 are patentable over the cited combination of Daenan, Baugh, and Sawai at least for the reasons given above regarding claim 28. Claims 43 through 46, claims 49 through 53, and 55 through 58 are patentable over the cited references at least based on their dependency from claims 42, 48, and 54, respectively.

The Office Action asserts that claims 40 and 45 are unpatentable over claims 1 through 54 of U.S. Patent No. 6,719,159 to Chomik based on the judicially created doctrine of obviousness-type double patenting. A terminal disclaimer obviating this rejection will be filed when the above claims are otherwise found to be in condition for allowance.

The Office Action also asserts that claims 40 and 45 are unpatentable over claims 1 through 23 of U.S. Patent No. 6,142,325 to Chomik under the judicially created doctrine of obviousness-type double patenting. A terminal disclaimer obviating this rejection will be filed when the above claims are otherwise found to be in condition for allowance.

In view of the above, Applicants respectfully submit that all claims presented in this application are patentably distinguishable over the cited references and combination of references. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

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